

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

LIFEWAY FOODS INC.,

Employer,

- and -

BAKERY, CONFECTIONARY, TOBACCO
WORKERS, AND GRAIN MILLERS INTER-
NATIONAL UNION, LOCAL UNION No. 1,

Petitioner.

Cases Nos. 13–RC–113248

**Lifeway’s Motion for an Extension
of Time to File Exceptions to the Hearing
Officer’s Report and Recommendation**

In accordance with Sections 102.69(f) and 102.69(j)(3) of the Board’s rules and regulations, the Employer, Lifeway Foods Inc., moves for an extension of time until December 5, 2014 to file its exceptions and supporting brief to the hearing officer’s October 31, 2014 report and recommendation on the challenged ballots and objections to conduct affecting the results of the election.

In support of its motion, the Employer states that:

1. The Employer’s exceptions and brief in support of its exceptions to the hearing officer’s October 31, 2014 report and recommendation are currently due on November 14, 2014.
2. Although the Board generally faxes or emails time-sensitive documents and encourages e-filing, the hearing officer’s report and recommendation in this matter was mailed to the Employer and over one-third of the time for filing exceptions to the report had already elapsed by the time the Employer received the report.

3. The weeklong hearing in this case on the challenged ballots and objections to conduct affecting the results of the election generated a lengthy record. The hearing transcript is 951 pages long and the hearing officer received 47 exhibits consisting of hundreds of additional pages. In addition to the voluminous record, this case also turns on challenging factual and legal issues that will require significant time and effort to research in order to adequately prepare the exceptions and supporting brief.

4. The Employer's attorneys responsible for preparing the exceptions and supporting brief have been engaged on other matters that require their immediate attention, and those engagements were scheduled long before the hearing officer issued his October 31, 2014 report and recommendation.

5. As a result, the Employer needs an extension of time until December 5, 2014 to file its exceptions and brief in support. This is the Employer's first request for an extension and it has not sought to unduly delay these proceedings.

6. Counsel for the Employer contacted counsel for the Petitioner regarding the extension of time sought in this motion. Counsel for the Petitioner did not agree to the requested three-week extension of time, but would agree to a shorter extension if the Employer would agree to an extension of the Petitioner's deadline to file an answering brief. The Employer does not oppose a corresponding extension for the Petitioner; however, a three week extension is necessary because of the Employer's attorneys' engagement on other matters, which include:

- a. Preparing a dispositive motion due November 7, 2014 and deposition of a primary witness on November 17, 2014 in the matter of *Brust v. Career Education Corporation, et al.*, pending in the Circuit Court of Cook County;

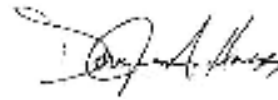
- b. Preparing for and conducting the plaintiff's deposition and a court-ordered settlement statement between November 7 and November 12, 2014 in the matter of *Kirley v. Board of Education of Maine Township High School District #207* pending in the Northern District of Illinois;
- c. Drafting position statements and responding to requests for information in three unfair labor practice charges due November 12, 2014 in the cases *In re Schneider Electric USA, Inc.*, Nos. 09-CA-137515, 09-CA-138018, and 09-CA-138446 pending before the Board.
- d. Drafting position statements in two unfair labor practice charges due November 14, 2014 in the cases *In re Hotel Palomar Chicago*, Nos. 13-CA-138945 and 13-CA-138947 pending before the Board.
- e. Preparing a summary judgment reply due November 14, 2014 in the matter of *Rhodes v. Leyden High School District #202* pending in the Northern District of Illinois;
- f. Preparing for a dispositive motion hearing on November 18, 2014 and a court-ordered settlement statement on November 26, 2014 in the matter of *Ojendiz v. Chicago Apartment Finders, et al.* pending in the Northern District of Illinois;
- g. Preparing a response to a lengthy Equal Employment Opportunity Commission request for information in two charges of discrimination due November 21, 2014; and
- h. Assisting a client with a time-sensitive business immigration audit and compliance matter.

Relief Requested

The Employer therefore respectfully requests that the Board grant this motion and allow the Employer until December 5, 2014 to file its exceptions to the hearing officer's October 31, 2014 report and recommendation on the challenged ballots and objections to conduct affecting the results of the election.

Respectfully submitted,
Lifeway Foods Inc.

By: _____



One of its attorneys

Amy Moor Gaylord
Amy J. Zdravecky
Douglas A. Hass
Mark S. Wilkinson
FRANCZEK RADELET P.C.
Attorneys for the Employer
300 S. Wacker Dr., Ste. 3400
Chicago, IL 60606
312.986.0300

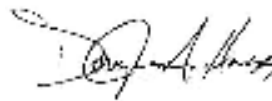
Dated: November 6, 2014

Certificate of Service

I certify that on November 6, 2014, I electronically filed Lifeway Foods Inc.'s *Motion for an Extension of Time to File Exceptions to the Hearing Officer's Report and Recommendation* with the National Labor Relations Board, using the Board's e-filing system. I further certify that on November 6, 2014, I served Lifeway Foods Inc.'s *Motion for an Extension of Time to File Exceptions to the Hearing Officer's Report and Recommendation* upon the Regional Director and the Petitioner by facsimile (and email where indicated):

Peter Sung Ohr
Regional Director
National Labor Relations
Board (Region 13)
209 S. LaSalle St., Ste. 900
Chicago, IL 60604-1443
(fax) 312.886-1341

Gail E. Mrozowski
CORNFIELD & FELDMAN LLP
Attorneys for Petitioner
25 E. Washington St., Ste. 1400
Chicago, IL 60602-1803
(fax) 312.236-6686
(email) mgrozowski@cornfieldandfeldman.com



Douglas A. Hass